

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INMATE #: CDC BP7419

CASE NUMBER

Jahmal Omniko Davis,

2:24-cv-01722-ODW-DFM

v.

PLAINTIFF(S)

J. Skelton, et al.,

DEFENDANT(S)

ORDER ON REQUEST TO PROCEED
WITHOUT PREPAYMENT OF FILING FEES
(PRISONER NON-HABEAS CASE)

The Court has reviewed the Request to Proceed Without Prepayment of Filing Fees (the "Request") and the documents submitted with it. On the question of indigency, the Court finds that Plaintiff:

is not able to prepay the full filing fee. is able to prepay the full filing fee.

has not submitted enough information for the Court to tell if Plaintiff is able to prepay the full filing fee. This is what is missing:

- a certified copy of a trust fund statement for the last six months.
- a certificate of authorized officer

IT IS THEREFORE ORDERED that:

The Request is **GRANTED**. Plaintiff now owes the Court the total filing fee of \$350.00. An initial partial filing fee of \$_____ is due immediately; this case may be dismissed if that amount is not received by the Court within 30 days. Thereafter, monthly payments must be forwarded to the Court as provided in 28 U.S.C. § 1915(b)(2).

Ruling on the Request is **POSTPONED** for 30 days so that Plaintiff has the opportunity to provide:

- the missing information identified above.
- authorization to disburse funds from the prison trust account.

If Plaintiff does not provide the information or authorization within 30 days, this case may be DISMISSED without prejudice.

The Request is **DENIED** because:

- Plaintiff has the ability to prepay the full filing fee.
- As explained in the attached statement:
 - Plaintiff has three prior "strikes" but has not plausibly alleged that Plaintiff is in imminent danger of serious physical injury fairly traceable to unlawful conduct alleged in the complaint and redressable by the Court.
 - The District Court lacks subject matter jurisdiction.
 - The action is frivolous or malicious.
 - The action fails to state a claim upon which relief may be granted.
 - The action seeks monetary relief against defendant(s) immune from such relief.

IT IS FURTHER ORDERED that:

Within 30 days of the date of this Order, Plaintiff must do the following:

If Plaintiff does not comply with these instructions within 30 days, this case will be DISMISSED without prejudice.

As explained in the attached statement, because it is absolutely clear that the deficiencies in the complaint cannot be cured by amendment, this case is hereby DISMISSED WITHOUT PREJUDICE WITH PREJUDICE.

March 12, 2024

Date

United States District Judge

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege (1) the violation of a right secured by the Constitution or federal law, and (2) that the alleged violation was committed by a person acting under color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

Here, Plaintiff left the supporting facts and injury sections of his form civil rights complaint blank. Additionally, he fails to make any allegation as to what Constitutional or other federal right he relies upon, and how it was violated. Relatedly, he also has not connected any alleged violation to a defendant, or made any “showing of personal participation in the alleged rights deprivation” by any alleged defendant. *See Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002). Accordingly, Plaintiff has failed to state a comprehensible claim under § 1983.

Accordingly, the Complaint is **DISMISSED** without prejudice and without leave to amend as frivolous and because it and fails to state a claim upon which relief can be granted. *See Anderson v. Sy*, 486 F. App’x 644 (9th Cir. 2012) (district court properly dismisses as frivolous where “the complaint contains indecipherable facts and unsupported legal assertions”); *Lopez v. Smith*, 203 F.3d 1122, 1128 n.8 (9th Cir. 2000) (en banc) (“[w]hen a case may be classified as frivolous or malicious, there is, by definition, no merit to the underlying action and so no reason to grant leave to amend.”).

In light of this dismissal, Plaintiff’s request to proceed *in forma pauperis* is **DENIED**.

(attach additional pages if necessary)